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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO/OAKLAND DIVISION

WILLIAM HELM, DEBORAH PRISE,
HEATHER P. RADY, et al., on behalf of) Case No. CV 08-1184 JSW
themselves and all other employees and former)
employees similarly situated,)
Plaintiffs,)
v.)
ALDERWOODS GROUP, INC., PAUL A.)
HOUSTON, SERVICE CORPORATION)
INTERNATIONAL, SCI FUNERAL AND)
CEMETERY PURCHASING)
COOPERATIVE, INC., SCI EASTERN)
MARKET SUPPORT CENTER, L.P., SCI)
WESTERN MARKET SUPPORT CENTER,)
L.P. a/k/a SCI WESTERN MARKET)
SUPPORT CENTER, INC., and SCI)
HOUSTON MARKET SUPPORT CENTER,)
L.P.,)
Defendants.)

**PLAINTIFFS' STATEMENT IN
SUPPORT OF RELATING CASES**

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2 submit applications for admission *pro hac vice*:

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STATEMENT IN SUPPORT OF RELATING CASES

Plaintiffs submit this Statement in Support of Relating Cases in response to Judge Jeffrey S. White's *sua sponte* Judicial Referral for Purposes of Determining Relationship of Cases (*see* Case No. 08-1184, Docket No. 26). Plaintiffs respectfully submit that, in light of the prior decision relating two other actions currently pending in the District Court for the Northern District of California—*Bryant v. Alderwoods Group, Inc.*, Case No. 07-5696 (“*Bryant I*”) and *Bryant v. Service Corporation International*, Case No. 08-1190 (“*Bryant II*”)—the instant action (“*Helm*”) should be related to those other actions.

Plaintiffs initially filed the claims asserted in *Helm*, *Bryant I* and *Bryant II* together with other claims in an action in the District Court for the Western District of Pennsylvania captioned *Prise v. Alderwoods Group, Inc.*, Case No. 06-1641 (“*Prise*”). All of the claims in each of these actions are based upon the allegation that employees who worked at defendants’ funeral home locations were not properly paid their regular or statutorily required rates for all the time they worked for defendants.

At defendants' request, however, the *Prise* Court determined that certain claims would not be heard together in that action. Based upon the *Prise* Court's rulings, as well as defendants' position which resulted in those rulings, plaintiffs refiled certain claims separately in the *Helm*, *Bryant I* and *Bryant II* actions.

However, consistent with plaintiffs' initial filing and in light of the prior determination that *Bryant I* and *Bryant II* are related, plaintiffs submit that the *Helm* action should also be related.

PROCEDURAL HISTORY

Plaintiffs File All Claims Together in the Western District of Pennsylvania

On December 12, 2006, Alderwoods Group, Inc. (“Alderwoods”) and Service Corporation International (“SCI”), both named defendants in this action, were named in the *Prise* complaint filed in the Western District of Pennsylvania. Prior to the filing of *Prise*, SCI had acquired Alderwoods and Alderwoods had become SCI’s wholly-owned

1 subsidiary. After the merger, SCI continued to operate the vast majority of both its own
 2 funeral homes and those of Alderwoods.

3 The *Prise* complaint was filed as a class and collective action alleging, *inter alia*,
 4 that employees who worked at defendants' funeral home locations were not properly paid
 5 for all the time they worked for defendants. It asserted violations of both the Fair Labor
 6 Standards Act ("FLSA") and state wage and hour laws. The *Prise* Court conditionally
 7 certified an FLSA class of employees and directed that notice be sent to certain individuals
 8 who worked or had worked at an Alderwoods location. In response to that notice,
 9 hundreds of current and former employees opted-in to the *Prise* action, including
 10 employees who had worked only at Alderwoods locations, before and/or after SCI's
 11 acquisition ("Alderwoods employees"), and employees who had worked at other SCI
 12 locations unrelated to Alderwoods ("SCI employees").

13 Both Alderwoods and SCI employed a set of practices or policies whereby
 14 employees were not paid their regular or statutorily required rate for all hours worked.
 15 Thus, because of the overlapping legal liability of defendants, as well as the overlapping
 16 factual issues in the matter, plaintiffs believed it was legally appropriate and in the
 17 interests of judicial efficiency for defendants to be named in a common action and for all
 18 of the employees' claims to be brought together.

19 ***Defendants Move to Have Certain Claims Heard Separately***

20 Based on defendants' requests in their motions, the *Prise* Court determined that
 21 certain claims would not be heard together in the *Prise* action. Following these rulings,
 22 plaintiffs refiled those claims in the *Bryant I*, *Helm* and *Bryant II* actions.

23 As an initial matter, in granting plaintiffs' motion for notice the *Prise* Court also
 24 provided a deadline by which individuals who wished to join that action must opt-in.
 25 Employees who asked to assert claims against defendants but could not join the *Prise*
 26 action because of the deadline were joined together with certain other individuals in the
 27 *Bryant I* action.

1 In June, 2007, the *Prise* Court declined to exercise supplemental jurisdiction over
2 any of the state law claims alleged in the *Prise* action. Therefore, on or about July 9, 2007,
3 the Alderwoods employees and the SCI employees jointly reasserted their state law claims
4 in a Class Action Complaint filed in the Superior Court of the State of California for the
5 County of Alameda. Defendants removed that action to federal District Court for the
6 Northern District of California as *Prise v. Alderwoods Group, Inc.*, 07-05140 (the
7 “Combined State Law Action”).

8 Subsequently, the *Prise* Court determined it would only hear claims on behalf of
9 Alderwoods employees, and that claims of employees who had worked only at other SCI
10 locations should be heard in a separate action. Based on that ruling, the federal claims of
11 those SCI employees were refiled in a separate action in the District of Arizona.
12

13 Based upon defendants’ position that resulted in that ruling, the Combined State
14 Law Action was voluntarily dismissed so that the state law claims of the Alderwoods
15 employees could be heard separately from those of the SCI employees—just as the *Prise*
16 Court had ruled that their federal claims would be filed separately. Those state law claims
17 were refiled by the Alderwoods employees in *Helm*, while the SCI employees filed their
18 state law claims in *Bryant II*. Both *Helm* and *Bryant II* were initially filed in state court
19 and removed to federal district court by defendants.

20 Thus, three actions are now pending in the Northern District of California: *Bryant I*,
21 which asserts FLSA claims on behalf of Alderwoods employees who were unable to join
22 the *Prise* action; *Helm*, which asserts the state law claims of Alderwoods employees; and
23 *Bryant II*, which asserts the state law claims of SCI employees. On March 11, 2008, the
24 Court ruled that the *Bryant I* and *Bryant II* actions are related. *See Bryant II*, Case No. 08-
25 1190, Docket No. 27. On March 13, 2008, the *Helm* matter was referred for determination
26 as to whether it, too, should be related to the *Bryant* actions. *See Helm*, Case No. 08-1184,
27 Docket No. 26.
28

HELM SHOULD BE RELATED TO THE OTHER ACTIONS

As discussed above, plaintiffs initially filed all of the claims at issue in a single action because plaintiffs believed that the overlapping legal liability of defendants, as well as the overlapping factual issues in the matter, rendered it legally appropriate and in the interests of judicial efficiency for these claims to be brought together. The claims were filed in separate actions only in response to defendants' arguments and positions.

There is significant overlap in the parties to these actions. Although some of the plaintiffs may be neatly defined as either Alderwoods employees or SCI employees, other plaintiffs fall into both categories. Moreover, with the exception of Alderwoods, which is not named in *Bryant II*, there is complete overlap in the corporate defendants in these actions, although individual defendants vary somewhat. Finally, there is significant factual overlap in these cases, which involve similar or identical policies and practices.

Most importantly, the ruling relating the *Bryant I* and *Bryant II* actions weighs in favor of relating the *Helm* action. The plaintiffs in the *Helm* action include the plaintiffs in the *Bryant I* action (and may, to a lesser extent, overlap with the plaintiffs in *Bryant II*). The state law claims at issue in *Helm* are nearly identical to those at issue in *Bryant II*.

Thus, plaintiffs submit that, in light of the determination that *Bryant I* and *Bryant II* are related, *Helm* should also be related in the interest of judicial efficiency.

Respectfully Submitted,
ROSEN, BIEN & GALVAN, LLP

Date: March 17, 2008

By:/s/ *Lori Rifkin*

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